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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,891	03/19/2004	Lou Carolla	45-309	7138

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EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/803,891	CAROLLA ET AL.	
	Examiner	Art Unit	
	Scott Kastler	1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

### ***Drawings***

Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 14 and 19 are objected to because of the following informalities: The above claims are objected to as informal because these claims recite that the refractory material be "KALTEK (RTM) material", however, this material is never defined in the specification as originally filed other than to state that refractory material by this trade name is preferably employed as the refractory lining material. It has been well settled that a trademark or trade name cannot be relied upon to properly identify a particular material. See MPEP 2173.05(r). Appropriate correction is required.

Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above claim does not fairly further limit independent claim 16, from which it depends because all liners are to some extent "discardable" (i.e. can be

Art Unit: 1742

discarded when no longer desired) and “separable” (since the term “readily” is at best a relative term and not properly further limiting).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of the instant disclosure. As described in the description of prior art figures 1-3 of the instant disclosure for example, the admitted prior art of the instant disclosure teaches a ladle and liner therefore including an outer metal shell and liner comprising a continuous inner sidewall (11 for example) and barrier (10, 14 or 16) to define a spout for discharging molten metal, constructed in a manner meeting the requirements of the instant claims, including the use of “KALTEK” material if desired (see page 3 of the instant specification for example) thereby showing all aspects of the above claims except the specifically recited ladle configuration (where the sidewall have an inwardly extending portion to meet the longitudinal edges of the barrier, rather than as shown in the admitted prior art of the instant disclosure where the barrier extends to be inserted into the continuous sidewall). However, the ladle and liner of the admitted prior art of the instant disclosure employs the same components in substantially the same manner with substantially the same results as that of the instant claims. It has been well settled that where, as

Art Unit: 1742

in the instant case, no new or unexpected result are shown to arise therefrom, motivation to alter the shape or configuration of a component shown by the applied prior art (the continuous sidewall and barrier tile of the prior art ladles), without material affecting the function of the components or the apparatus as a whole, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B and *In re Dailey*, 149 USPQ 47. In the instant case, absent any demonstrated new or unexpected results arising therefrom, motivation to alter the shape or configuration of the sidewall and or barrier tile of the ladle and liners of the admitted prior art of the instant disclosure to any other equally useful shape, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

### ***Conclusion***

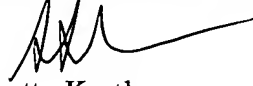
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Griner, European'363, Lynham and Windish are also cited as further examples of ladles including sidewalls and barriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Kastler  
Primary Examiner  
Art Unit 1742

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